

In the Claims:

Please amend claim 1 as follows:

1. (Three Times Amended) A recording and playing back device, comprising:
a reader/writer for reading and writing data from/to a storage medium;
a determiner for determining whether data can be successfully read by said reader/writer;
a retry commander for commanding said reader/writer to retry to read the data if said determiner determines that the data read operation can be unsuccessful;
a data overwrite logic for [overwriting] writing to the storage medium with the read data if a command has been issued a predetermined number of times or more by said retry commander when the data read operation is determined to be successful by said determiner wherein the data overwrite logic attempts to [overwrite] write said [the same] data [sectors or] to the nearest possible track and sector which did not originally store [stored] said read data; and
a data saving logic for saving the data to be overwritten to a nonvolatile memory before the data is overwritten by said data overwrite logic.

2. (Cancelled)

3. (Previously Amended) The recording and playing back device according to Claim 1, further comprising a pointer information changer for changing the pointer information which points to the storage location of the data to be read on the storage medium after the data was saved by said data saving logic or overwritten by said data overwrite logic.

4-14 (Cancelled)